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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,162	01/28/2004	Andi Vonlanthen	31856US3	3393
116 7590 07/11/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
LE, HUYEN D				
ART UNIT		PAPER NUMBER		
2615				
MAIL DATE		DELIVERY MODE		
07/11/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/766,162

**Applicant(s)**

VONLANTHEN, ANDI

**Examiner**

HUYEN D. LE

**Art Unit**

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification, as originally filed, does not provide support for the limitation of each of said plurality of modules being adapted for snap-locking as is now claimed in claim 10.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerns (U.S. patent 6,144,748).

Regarding claims 1 and 3, Kerns teaches a hearing device comprising a housing adapted for placement behind the ear (figure 1a, 1c). The housing has a base part and the auxiliary device packages or the modules (240) that are releasably mounted to the base part by a hinge part

(figures 1, 1b, 1c, 1d and 2), wherein the module (240) is a wireless signal transmission module (col. 1, lines 61-64 and col. 2, lines 57-61).

Kerns does not specifically teach that the auxiliary device or the wireless signal transmission module (240) comprises a battery compartment module. However, Kerns does teach an external connector (221) to provide power and ground to the module (240, figure 2 and see col. 2, lines 43-44).

Therefore, it would have been obvious to one skilled in the art to provide a battery compartment module in the housing of the hearing device (210) or in the wireless signal transmission module (240) for the same desired purpose of providing a power source for the wireless signal transmission module.

Regarding claim 10, as best understood with regarding 112, 1<sup>st</sup>, Kerns shows the auxiliary device packages or the modules (240) that are adapted for snap-locking (figures 1c, 1d and see col. 6, lines 55-57).

Regarding claim 10, as best understood with regarding 112, 1<sup>st</sup> and interpreted in a different manner, Kerns does not specifically teach the module of the battery compartment being adapted for snap-locking. However, Kerns does teach a snap-locking for the auxiliary device (240, figure 1c and col. 6, lines 55-57).

Therefore, it would have been obvious to one skilled in the art to provide a snap-locking for the wireless transmission module and the battery compartment module for better connecting the modules to the housing.

***Response to Arguments***

5. Applicant's arguments filed 4/17/08 have been fully considered but they are not persuasive.

Responding to the arguments about the 112, 1<sup>st</sup> paragraph, the Applicant should note that the original specification does not teach that each of the plurality of modules is adapted for snap-locking as claimed in claim 10, wherein one of these modules is a wireless signal transmission module and another one of the modules is a battery compartment module. The original specification only discloses the snap-on part 43a for the modules (51) that can be stacked on the basic module.

Responding to the arguments about the limitation of "a plurality of modules being releasably mounted to said base part" on page 4 of the Remarks, the examiner refers to the Office Action. Kerns teaches an auxiliary device (240) that comprises a wireless compartment module and lacks the teaching of a battery compartment module in the auxiliary device. However, as mentioned in the Office Action, it would have been obvious to one skilled in the art to provide the auxiliary device (240) that comprises a plurality of modules including the wireless module and the battery module. These modules are releasably mounted to the base part via a hinge part as shown in figures 1a, 1b and 1c.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SUHAN NI can be reached on (571)-272-7505. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/HUYEN D. LE/  
Primary Examiner, Art Unit 2615

HL  
July 4, 2008

